IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.8402 OF 2006

Kantilal D. Mule and ors. ..Petitioner.
Vs.
The State of Maharashtra and ors. ..Respondents.

Mr. P.M. Chakurkar for the Petitioners.
Ms. S.S.Bhende AGP. for the State.

CORAM: S.B. MHASE &
R.S. MOHITE, JJ.
DATE : 23rd April, 2007

P.C.

1. Heard.

2. The learned counsel for the petitioners submitted that the land in dispute has been acquired by the Government. However, no notices were issued and it is in possession of the petitioners. Today the Land Acquisition Officer is present. It transpires that the acquisition of the petitioners' land was completed during the life time of the petitioners' father and the father of the petitioners has accepted the amount of compensation. The possession of the disputed land has been taken from the father of the petitioners and now the land vests in the Government. Under these circumstances, it was not open for the petitioners to transfer the disputed land by way of gift to any other

person. However, it appears that the petitioners have transferred the disputed land by way of gift to one Educational Society. In fact, when the land vests in the Government, the said land cannot be gifted and also the permission to transfer under Section 43 of the B.T.A.L.Act cannot be given. This petition is for the purpose of any circumventing acquisition in favour of the Educational Institution. The petition is malafide one. It is a misuse of process of the law and therefore, we impose a costs of Rs.5000/- upon the petitioners to be paid to the State. Petition is accordingly rejected.

(R.S. MOHITE, J.) **(S.B. MHASE, J.)**